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OGC 73-2178

23 November 1973

MEMORANDUM FOR: Deputy Director of Personnel for
Special Programs

SUBJECT : Student-Child Survivor Payment under
CIARDS

REFERENCE : Note to DD/Pers/SP fr C/ROB, Same
Subject

1. The referenced note outlined a factual situation regarding a student child that was covered as a survivor under the CIA Retirement and Disability System (CIARDS). The question raised is whether the child meets the statutory definition and qualifies for an annuity during the period 30 August to 3 January 1973.

2. The critical facts are as follows:

(a) The child, during the period in question, was twenty-one years old.

(b) On 17 March 1972 she completed the winter quarter of college; however, the mother advised that she would be temporarily out of school due to a health problem, but she intended to continue as soon as able. The annuity, based on the child's qualification as a student and her intention to return to college, continued.

(c) The child returned to college on 26 July 1972 for the summer quarter and she completed this session on 30 August 1972. The mother

annuity is payable to an unmarried child between the ages of 18 and 22 "...if he is a student." Chapter 831-9c, Federal Personnel Manual. Further, Part 831.601h of the FPM Supplement states:

The right to survivor annuity as student-child shall attach, where all other requirements are met, if the educational or training institution certifies that the child is regularly pursuing a full-time day or evening course of resident study or training. For this purpose a full-time course of resident study or training means a day or evening non-correspondence course which contemplates attendance at the rate of at least 36 weeks per academic year with a subject load sufficient, if successfully completed, to attain the educational or training objective within the period generally accepted as minimum for completion, by a full-time day student, of the academic or training program concerned.

Notwithstanding this regulation, it appears to be the practice of the CSC to continue payment during an interim break in the student status whenever that break occurs, and to monitor to insure that the five-month rule is not exceeded for that break. Further, if for some reason the payment during a break has been suspended, but the break did not exceed the five-month rule, they would reinstate the payment retroactively for the break period. They look only at the last break in student status and while they acknowledge that the total picture should be examined, as a matter of practice, they do not do so.

5. Generally, CIARDS follows the CSC insofar as practicable as their pertinent rulings are used as guides to determinations under CIARDS. We think their above quoted regulation adequately fits the situation of a student attending a college where the school year consists of the "normal" fall and spring semesters and a summer break. Their practice, though, takes into account this type of school year and a number of others; i.e., the quarter, trimester, etc. Thus, in some circumstances, as is the case

MEMORANDUM FOR:

DD/1-5/SP

Any interim? (Semester, Quarter, etc.)
Interim between school years?
(June to Sept)
Each interim does not exceed
5 months?

Total break during year
not to exceed 5 months?



FORM NO. 101 REPLACES FORM 10-101
1 AUG 54 WHICH MAY BE USED.

(47)

STAT

NOTE ATTACHED TO OGC 73-2139

02 73-2139
Rec'd 11/15/73

NOTE TO: DD/Pers/SP

SUBJECT: Student-child survivorship payments

You wanted a reminder to check with OGC concerning whether or not a student-child survivor annuity payment under CIARDS can continue for more than one break during a school year. Each break separately does not exceed 5 months--combined they do.

The facts in the case under consideration are as follows:

17 Mar 72: Completed Spring Semester. Advised by parent that child has a health problem and will be temporarily out of school but intends to continue as soon as able. Checked with CSC -- they would continue payment but monitor for 5-month rule. Parent orally stated child would return for Summer Term. Annuity continued.

26 Jul 72: Returned to school for Summer session. Certification on file.

30 Aug 72: Completed Summer session.

↑
not full 5 mos

Advised by parent that student would not return to school for Fall term due to continuing health problem.

Annuity suspended.

↓

3 Jan 73: Reentered school. School certification on file. Annuity reinstated.

9 Jun 73: Completed school year. Annuity terminated - attainment of age 22

A check with CSC revealed that they look only at the last break in the student status and if they find that the 5-month rule has not been exceeded they would reinstate the payment retroactively. They acknowledge that the total picture should be looked at but as a matter of practice do not do so. It seems to be an administrative expedient rather than regulation or law.

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C/ROB

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NOTE ATTACHED TO OGC 73-2139